

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Suspension or Revocation)	
of the Licenses to Operate Gambling)	No. CR 2014-00786 & 2014-01062
Activities of:)	
)	<i>SECOND AMENDED</i>
)	NOTICE OF ADMINISTRATIVE
Diamond Lil's)	CHARGES AND OPPORTUNITY
Renton, Washington,)	FOR AN ADJUDICATIVE
)	PROCEEDING
Licensee.)	<i>(Amendments appear in italics</i>
)	<i>and strikeouts)</i>

I.

The Washington State Gambling Commission issued Diamond Lil's, organization number 00-05124, the following licenses:

- Number 05-01996, authorizing class “C” Punchboard Pull-Tab activity; and
- Number 65-00556, authorizing class “F11” Public Card Room activity.

The licenses expire on September 30, 2014, and were issued subject to the licensee's compliance with state gambling laws and rules.

II.

David Trujillo, Director of the Washington State Gambling Commission, charges the licensee with the following violations of the Washington State Gambling Act, 9.46 RCW and WAC Title 230:

SUMMARY:

During a follow up inspection, Diamond Lil's failed to document and reconcile differences between the Player Supported Jackpot (PSJ)¹ bank statement and the PSJ Prize Fund Accrual record. In addition, the licensee failed to provide information regarding five cash transfers between their two licensed properties, Diamond Lil's and Freddie's Club. Diamond Lil's also failed an underage gambling inspection. *As a result, the licensee failed to comply with the terms in a previous Settlement Order issued October 7, 2013.*

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¹ The PSJ is collected from the players' wages and Diamond Lil's acts only as a custodian of these funds.

FACTS:

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- 1) On September 12, 2013, Lori Bender, President for the GSG Corporation and owner of Diamond's Lil's, signed a Settlement Order to resolve violations in 2013 relating to the licensee's PSJ account and unreported cash transfers with Freddie's Club.
- 2) On April 10, 2014, a Washington State Gambling Commission Special Agent (agent) started a follow up inspection, which was part of the September 2013 Settlement Order for Diamond Lil's. Ms. Bender provided the agent with copies of the PSJ bank statements for the months of September 2013 through March 2014.
- 3) The agent traced the deposits and prizes paid from the Prize Fund Accrual record to the bank statements for the period of September 2013 to March 2014. All of the deposits and prizes paid on the monthly Prize Fund Accrual Record agreed with the bank statements. There were no additions or withdrawals that were not PSJ related. The licensee did have a difference between the Prize Fund Accrual record and the bank statement for each of the months the agent reviewed.
- 4) According to the bank statement, the balance on September 30, 2013, was \$183,060.70 and the PSJ Prize Fund Accrual record had a balance of \$157,853.21. The bank statement balance did not adjust for the deposits in transit to the general account, outstanding checks and PSJ prizes paid out of the cashier cage.
- 5) Diamond Lil's has a procedure to pay PSJ prizes out of the cashier cage with the licensee's money from their general bank account. The licensee would then reimburse the general bank account by transferring money from the PSJ bank account to the general bank account. Diamond Lil's did not follow proper procedures when transferring PSJ prizes paid out of the general account for the period of September 23, 2013, to September 30, 2013, which totaled \$39,140. The licensee reimbursed a partial amount of \$20,000 on September 30, 2013. This left a remaining balance of \$19,140 that still needed to be transferred to the general bank account.
- 6) The adjusted bank statement balance for the PSJ account for September 30, 2013, should have been \$156,144.10. The difference between the adjusted bank statement balance and the PSJ Prize Fund Accrual record was -\$1,709.11. The agent talked to Ms. Bender about the difference, she stated prior to September, she estimated how much money to transfer to her general bank account. She said as long as her bank account balance exceeded her PSJ Prize Fund Accrual record balance, she thought she was good. She said that in September she transferred money to the general bank account according the prizes paid on the accrual record. She said she was not aware of the difference until Celeste Martinez, Accounting Supervisor, brought it to her attention when she completed the November 2013 reconciliation. Ms. Bender said the difference probably occurred in the months prior to September 2013. She always estimated the amount of the transfer.

7) According to the bank statement, the PSJ account balance on October 31, 2013, was \$152,249.20, and the PSJ Prize Fund Accrual record had a balance of \$138,349.81. The bank statement balance did not adjust for the deposits in transit, outstanding checks and PSJ prizes paid out of the cashier cage. The adjusted bank statement balance for October 31, 2013, should have been \$136,630.70. The difference between the adjusted bank statement balance and the PSJ Prize Fund Accrual record was -\$1,719.11.

8) According to the bank statement, the PSJ account balance on November 29, 2013, was \$135,554.50, and the PSJ Prize Fund Accrual record had a balance of \$111,534.31. The bank statement balance did not adjust for the deposits in transit, outstanding checks and PSJ prizes paid out of the cashier cage. The adjusted bank statement balance for November 30, 2013, should have been \$109,815.20. The difference between the adjusted bank statement balance and the PSJ Prize Fund Accrual record was -\$1,719.11. At the bottom of this reconciliation there was a hand-written note stating "29,062 to transfer/1,719.11 off." This was the reconciliation where Ms. Martinez noticed the difference and had informed Ms. Bender.

9) According to the bank statement, the PSJ account balance on December 31, 2013, was \$130,762.90, and the PSJ Prize Fund Accrual record had a balance of \$117,236.71. The bank statement balance did not adjust for the deposits in transit, outstanding checks and PSJ prizes paid out of the cashier cage. The adjusted bank statement balance for December 31, 2013, should have been \$115,517.60. The difference between the adjusted bank statement balance and the PSJ Prize Fund Accrual record was -\$1,719.11. Ms. Bender said Ms. Martinez had resigned in November, but had to come back to complete the reconciliation for December. Ms. Bender said this was a rough month because she had to maintain the PSJ account since Ms. Martinez left. She said she estimated her reimbursements to the general bank account, which is why the transfers did not agree with the specific dates on the accrual record as they had in the prior month reconciliations.

10) According to the bank statement, the PSJ account balance on January 31, 2014, was \$100,219.61, and the PSJ Prize Fund Accrual record had a balance of \$90,264.91. The bank statement balance did not adjust for the deposits in transit, outstanding checks and PSJ prizes paid out of the cashier cage. The adjusted bank statement balance for January 31, 2014 should have been \$91,688.51. The difference between the adjusted bank statement balance and the PSJ Prize Fund Accrual record was \$1,423.60. Ms. Bender stated that since the PSJ bank account was short by \$1,719.11 at the end of the year, she reduced the amount she transferred from the PSJ bank account to the general account for this month. As a result of these transfers, the PSJ bank account was over funded by \$1,423.60.

11) According to the bank statement, the PSJ account balance on February 28, 2014, was \$94,065.51, and the PSJ Prize Fund Accrual record had a balance of \$70,856.61. The bank statement balance did not adjust for the deposits in transit, outstanding checks and PSJ prizes paid out of the cashier cage. The adjusted bank statement balance for February 28, 2014, should have been \$72,280.21. The difference between the adjusted bank statement balance and the PSJ Prize Fund Accrual record was \$1,423.60.

12) According to the bank statement, the PSJ account balance on March 31, 2014, was \$50,997.11, and the PSJ Prize Fund Accrual record had a balance of \$45,247.71. The bank statement balance did not adjust for the deposits in transit, outstanding checks and PSJ prizes paid out of the cashier cage. The adjusted bank statement balance for March 31, 2014, should have been \$46,671.31. The difference between the adjusted bank statement balance and the PSJ Prize Fund Accrual record was \$1,423.60.

13) On April 10, 2014, the agent met with Margo Keithly, Bookkeeper for Diamond Lil's. She took over the duty of reconciling the PSJ bank account to the PSJ Prize Fund Accrual record for the month of March 2014. She said they have not transferred funds to correct for the difference between the bank statement and PSJ Prize Fund Accrual record. She said Ms. Bender wanted her to confirm the correct amount that needed to be transferred. The agent later confirmed with Ms. Bender the correct amount to transfer from the PSJ bank account to her general account was \$1423.60.

14) The licensee did not report required cash transfer information to Commission staff for the period of October 2013 to March 2014 until requested on April 10, 2014. According to the records, the licensee transferred cash from the Diamond Lil's general bank account to the Freddie's Club bank account on the following dates:

- December 12, 2013- \$10,000
- December 17, 2013- \$15,000
- January 09, 2014- \$20,000
- January 17, 2014- \$30,000
- February 18, 2014-\$30,000

15) Ms. Bender said she understood she should have corrected the PSJ balance difference sooner and reported the cash transfers within 30 days. She said November 2013 to March 2014 was a hectic time, due to Ms. Martinez resigning in November. She said Ms. Martinez had worked at Diamond Lil's for many years and she relied on her to reconcile the PSJ account. She said she had to train Ms. Keithly to reconcile the PSJ account. In addition, Ms. Bender was working on the sale of the business, which took a majority of her time. She said in the end they were not able to sell the business and were filing for Chapter 11 bankruptcy.

16) Based on these violations, there are grounds to impose the 13 days of suspension deferred from the September 2013 Settlement Order.

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17) On June 3, 2014, Diamond Lil's failed an underage gambling inspection.

18) On June 6, 2014, the agent visited Diamond Lil's. He met with the surveillance manager and reviewed the following events on the June 3, 2014, surveillance recording:

- 18:01:20- The underage operative (UO) approached James Voigt, Poker Supervisor, who was standing at the poker podium. The UO provided Mr. Voigt with identification. Mr. Voigt appeared to check the identification card and gave it back to the UO. Mr. Voigt accepted money from the UO in exchange for gaming chips and escorted the UO to the poker table.
- 18:01:52- Mr. Voigt placed the UO's gaming chips in seat six of the poker table.
- 18:02:42 to 18:08:45- The UO made wagers and played several hands. The UO then won a poker hand, collected their winning chips, and left the poker table.

19) The agent contacted Ms. Bender on June 24, 2014, to inform her of the violation, which is Diamond Lil's second underage gambling violation in two years.

20) These actions are a violation of Diamond Lil's Settlement Order, which was entered on October 7, 2013. The Order provided that if Diamond Lil's had any violations that warranted the filing of administrative charges, the Director may impose 13 days of deferred suspension.

ADMINISTRATIVE HISTORY:

In 2007, the licensee had an operational violation by allowing a minor to play cards. The licensee settled with a 5-day suspension, 4 days deferred for one year, 1 day vacated by fine and costs of \$10,367.

In 2010, the licensee had an operational violation by taking funds from the progressive jackpot account. The licensee settled with a 15-day suspension, 10 days deferred for one year, 5 days vacated by fine & costs of \$27,013.

In 2010, the licensee had an operational violation by failing to maintain surveillance coverage. The licensee settled with a 15-day suspension, 10 days deferred for one year, 5 days vacated by fine and costs of \$27,013.

In 2013, the licensee had an operational violation by taking funds from the player supported jackpot. The licensee settled with a 15-day suspension, 13 days deferred for one year, 2 days vacated by paying a fine of \$7,745.

VIOLATIONS:

1) RCW 9.46.075 Denial, suspension, or revocation of license

The Commission may deny an application, or suspend or revoke any license or permit issued by it, for any reason or reasons, it deems to be in the public interest. These reasons shall include, but not be limited to, cases wherein the applicant or licensee, or any person with any interest therein, (The following subsection applies.)

(1) Has violated, failed or refused to comply with the provisions, requirements, conditions,

limitations or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the Commission pursuant thereto, or when a violation of any provision of chapter 9.46 RCW, or any Commission rule, has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control.

2) WAC 230-03-085 Denying, suspending, or revoking an application, license

We may deny, suspend, or revoke any application, license or permit, when the applicant, licensee, or anyone holding a substantial interest in the applicant's or licensee's business or organization,

(The following subsections apply.)

(1) Commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075;

(3) Has demonstrated willful disregard for complying with ordinances, statutes, administrative rules, or court orders, whether at the local, state, or federal level;

(8) Poses a threat to the effective regulation of gambling, or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities, as demonstrated by: (a) Prior activities.

3) WAC 230-15-400 Accounting for player-supported jackpot funds.

(The following subsection applies.)

Class F or house-banked licensees must:

(7) Reconcile the account balance in their bank statement to the PSJ prize balance on their PSJ fund accrual record each month. "Reconcile" means the licensee must compare the two balances, resolve any differences, and document the comparison and the differences in writing. Licensees must keep the reconciliation as part of their records.

4) WAC 230-15-360 Defining "player-supported jackpot."

"Player-supported jackpot" (PSJ) means a separate contest of chance directly related to the play or outcome of an authorized nonhouse-banked card game.

(The following subsections apply.)

(1) Only Class F or house-banked licensees may establish a prize fund to operate a PSJ for non house-banked card games.

(2) In PSJs, licensees:

- (a) Collect funds from the players' wagers (the pot) for a separate prize; and
- (b) Act only as the custodian of the PSJ funds, including any interest earned on this money; and
- (c) Maintain no legal right to the funds, except for administrative fees; and
- (d) Must strictly account for all funds.

5) WAC 230-06-080 Report changes to application information and submit updated documents and information.

(The following subsections apply.)

(2) Licensees must submit to us any new or updated documents and information within thirty days of the effective date of the document or information, including the following:

(c) All cash or asset contributions, draws from lines of credit, and loans (except those from recognized financial institutions) during any calendar year which by themselves or totaled together are more than ten thousand dollars. Cash or asset contributions do not include donations to licensed charitable or nonprofit organizations; and

6) WAC 230-06-010 Age restrictions for players.

(The following subsections apply.)

No person must allow anyone under the age of eighteen to participate in gambling activities except:

(1) To play in licensed bingo games when accompanied by an adult member of his or her immediate family or a guardian, who is at least eighteen years old:

(a) "Immediate family" means only the spouse, parents, or grandparents of an individual; and

(b) "Guardian" means only a court-appointed, legal guardian of an individual; or

(2) To play bingo at agricultural fairs or school carnivals; or

(3) To play amusement games; or

(4) To sell raffle tickets for a charitable or nonprofit organization that:

(a) Has development of youth as a primary purpose; and

(b) Has at least three members or advisors who are at least eighteen years old and who supervise the operation of the raffle; and

(c) Has an adult member or advisor designated as the manager for the raffle.

From at least September 2013 through March 2014, the licensee failed to document and reconcile the differences between the PSJ prize fund accrual record and the PSJ bank statement, in violation of WAC 230-15-400. In addition, the licensee failed to report information regarding five cash transfers, in violation of WAC 230-06-080. Diamond Lil's also allowed a minor to gamble, in violation of WAC 230-06-010. The licensee previously entered into a Settlement Order to resolve charges for failure to report cash transfers and grounds exist to impose the deferred suspension from the October 2013 Settlement Order. Therefore, the licensee has demonstrated willful disregard for complying with Commission rules, and grounds exist for the suspension or revocation of Diamond Lil's licenses to operate gambling activities, based on RCW 9.46.075(1), and WAC 230-03-085(1), (3), and (8).

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III.

Jurisdiction of this proceeding is based on 9.46 RCW, Gambling, chapter 34.05 RCW, the Administrative Procedure Act, and WAC Title 230.

The licensee will have the opportunity to have a hearing on the alleged violations.

In order to have a hearing or discuss settlement options, the enclosed request for hearing must be completed and returned to the Gambling Commission **within 23 days** from the date of the mailing of this notice.

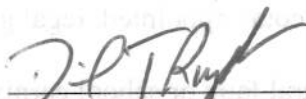
Based on RCW 34.05.440, failure to return a request for hearing will result in the entry of a default order REVOKING YOUR LICENSES.

IV.

I have read this Second Amended Notice of Administrative Charges and Opportunity for an Adjudicative Proceeding, know the contents of it, believe it to be true, and have executed this Notice in my capacity as Director of the Washington State Gambling Commission.

Dated

7/21/14



DAVID TRUJILLO, DIRECTOR

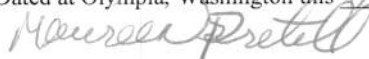
STATE OF WASHINGTON)

COUNTY OF THURSTON)

I certify I have this day served a copy of the document upon all parties of record in the proceeding by mailing a copy, properly addressed with postage prepaid, by regular and certified mail to each party to the proceeding or his or her attorney or authorized agent.

Dated at Olympia, Washington this

22 day of July, 2014



Diamond Lil's

SECOND AMENDED NOTICE OF ADMINISTRATIVE CHARGES
AND OPPORTUNITY FOR ADJUDICATIVE PROCEEDING

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